



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-177724

May 21, 1973

30946

Artech Corp.
2816 Fallfax Drive
Falls Church, Virginia 22042

Attention: Mr. Henry Hahn
President

Gentlemen:

(concerning)

Further reference is made to your letter dated December 20, 1972, with enclosures, protesting the exclusion of your firm from negotiations for the award of a contract for providing support of research and development in the field of environment and survival under request for quotations (RFQ) DAADO5-72-Q-1778, issued by the Aberdeen Proving Ground on July 24, 1972. Since no award has been made of this negotiated procurement, we must restrict our recitation of the facts. Paragraph 3-507.2 of the Armed Services Procurement Regulation (ASPR); 50 Comp. Gen. 114 (1970).

The solicitation required submission of quotations by August 22, 1972. Section "D," part 1, of the RFQ advised offerors that in order to be considered for award, quotations must receive an acceptable rating based upon the evaluation factors and in accordance with their relative importance as set forth therein. Technical evaluation of the six proposals received on the scheduled date was completed on September 7, 1972, and two proposals were determined to be within the competitive range. Firms submitting the remaining proposals were notified by letter dated October 17, 1972, that their proposals would not be considered further.

Pursuant to a technical evaluation, it was determined that your proposal was not within the competitive range and that further discussions with your firm would serve no useful purpose. On October 26, 1972, you advised the contracting officer that you were protesting this determination and by letter dated October 27, 1972, you set forth in detail the basis for your protest. The Source Selection Committee was requested to specifically comment on each statement set forth in your protest letter so that a final decision could be made by the contracting officer pursuant to ASPR 2-407.8 (a)(1). A reply to your protest was forwarded to you by letter dated December 15, 1972, advising of the affirmation of the original evaluation of your proposal and providing further clarification as to why your proposal was considered technically unacceptable.

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ration for the determination that your firm was not in a competitive range as detailed in the December 15, 1972, letter to you was the finding that your firm is highly oriented toward basic or applied research as shown by its past and current contracts, personnel and equipment/facilities. Additionally, you were advised that your proposal failed to show adequate expertise in the technical areas of environment and survival as cited in the RFQ, especially the areas of textiles, thin film plastics, organic chemistry and biology. Finally, it was stated in the letter that your proposal failed to establish your capability to support a program of environment and survival increasing the effectiveness of combat soldiers in various situations.

It is noted that you gave ample evidence of your qualifications in the proposal through the showing of satisfactory contract performance in the past. In addition, you contend that your proposal included information as to personnel and equipment/facilities which indicated the necessary qualifications to adequately perform the research and development work under this solicitation.

We have recognized that the determination of what constitutes a competitive range, particularly with respect to the evaluation of technical proposals, is a matter of administrative discretion which will not be disturbed when supported by the facts of the record. See 48 Comp. Gen. 317-318 (1963); B-170317, February 2, 1971; B-171030, June 22, 1972.

The record in this case shows that prior to the submission of proposals a plan for the evaluation of the technical proposals was developed by cognizant technical personnel. The plan provided for the weighted scoring of the proposals on the basis of each of the evaluation criteria specified in the RFQ. The proposals were evaluated and scored in accordance with the plan by two evaluators acting independently, and your proposal was ranked fourth on the basis of technical merit. The scores of the two highest rated proposals were significantly higher than any of the other proposals, including yours, and yours was the most advantageous from a cost standpoint. After review of the record in this case, we are unable to conclude that there was an abuse of discretion with respect to the determination of competitive range. B-173111, 11/22/72.

Therefore, it should be noted that since the record indicates that the notice of denial of your protest was received by you on December 1, 1972, and your protest was not received in this Office until December 7, 1972, it was untimely under our Interim Bid Protest Procedures and Standard which require filing in our Office within 5 days of notification of an agency action. 4 CFR 20.2(a). See B-176717(1), February 6, 1973.

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Accordingly, your protest is denied.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States